James H. Cunningham #V-72323
California Men's Colony State Prison
P.O. Box 8101 (6267x)
San Luis Obispo, Ca. 93409-8101
In Pro Se

FILED
2008 FEB 13 PM 4:05
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RM DEPUTY

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FEB - 8 2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

James H. Cunningham,
Petitioner,
vs.
John Marshall (Worden CMC-E)
Respondent.

Case No. 3:07-CV-2183
Motion and Request to File an Amended Federal Habeas Pleading With all Petitioner's Claims, Extention of Time

Petitioner, James H. Cunningham, in pro se, respectfully moves this Honorable Court to enter an Order Extending the Petitioner's time for 15 days, to file an amended pleading, on the grounds that the petitioner has acknowledged complex issues, while in the process of filing an amended pleading, and the amended pleading can only be filed once without leave of the court anytime before Respondent has filed a responsive pleading.

In Support of this motion petitioner,

James H. Cunningham declares as follows:

1.) Petitioner contends that on December 25, 2007 he filed a stay and abeyeance and several grounds respectfully requesting if he could return to State court to exhaust newly discoverd unexhausted claims

2.) On January 28, 2008, petitioner recieved several orders, one rejecting his newly discovered grounds and another stating that he could file an amended pleading once without leave of court anytime before Respondent has filed a responsive pleading

3.) Petitioner notes that the Respondent's answer is currently due on March 3, 2008 and Petitioner has strong concerns that the Respondent might file his response, before he is able to file his ameded Federal Habeas Pleading.

4.) Therefore, Petitioner prays this Honorable Court will grant him the extention to file the amended pleadging, until on or before Feburary 20, 2008

5.) I, James H. Cunningham, declare under the penalty of perjury, I have read the foregoing and the above facts and statements are true to the best of my knowledge and beliefs.

Excuted on ~~[illegible]~~ Feburary 5, 2008 at San Luis Obispo, California

Respectfully Submitted

[signature]

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

I am the party of the above entitled actions, a citizen of the United States and over the age of eighteen years, and a resident of San Luis Obispo County. My current address is:

James H. Cunningham #V-72323
California Men's Colony-East
P.O. Box 8101 Room 6267X
San Luis Obispo, CA. 93409-8101

I CERTIFY (OR DECLARE), UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.
EXECUTED ON Feburary 5, 20 08, AT SAN LUIS OBISPO, CALIFORNIA, 93409-8101.

PETITIONER

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA
COUNTY OF SAN LUIS OBISPO

I AM A RESIDENT OF SAID COUNTY, I AM OVER THE AGE OF EIGHTEEN YEARS AND NOT A PARTY TO THE ABOVE ENTITLED ACTION. MY BUSINESS ADDRESS IS:

James H. Cunningham #V-72323
CALIFORNIA MEN'S COLONY-EAST
P.O. BOX 8101 / Room 6267X
SAN LUIS OBISPO, CALIFORNIA 93409-8101

ON Feburary 5, 20 08, I SERVED THE WITHIN A Motion and Request to file an Amended Federal Habeas Pleading with all Petitioner's claims

ON THE PARTY: United States District Court Southern District of California

IN SAID ACTION, BY PLACING A TRUE COPY THEREOF IN A SEALED ENVELOPE WITH POSTAGE THEREON PREPAID, IN THE UNITED STATES MAIL, AT CALIFORNIA MEN'S COLONY, SAN LUIS OBISPO, CALIFORNIA, 93409-8101, ADDRESSED AS FOLLOWS:

United States District Court for the Southern District
Federal Office Building
880 Front Street, Suite 4290
San Diego, Ca. 92101-8900

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE AND CORRECT.
EXECUTED ON Feburary 5, 20 08, AT SAN LUIS OBISPO COUNTY, CALIFORNIA.

SIGNATURE OF DECLARANT

(REV..6/07)